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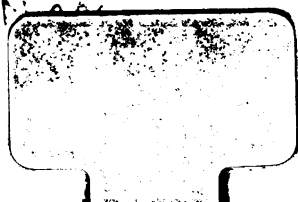
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PROPOSALS
FOR
A COURSE OF LECTURES
(IN CONTINUATION OF THOSE LATELY DELIVERED BY CHARLES PETERSDORFF, ESQ.)
ON
THE PRINCIPLES AND PRACTICE
OF
THE LAW OF ENGLAND,
AS
APPLICABLE TO CIVIL ACTIONS,
TO BE DELIVERED
DURING THE MONTHS OF JUNE, JULY, OCTOBER, AND NOVEMBER,
IN FURNIVAL'S INN HALL.
To which are added,
THE TEXT HEADS, AND AN ANALYTICAL OUTLINE OF
THE LECTURES.

BY
GEORGE BARCLAY MANSEL,
OF THE MIDDLE TEMPLE, ESQ.
AUTHOR OF "THE LAW AND PRACTICE OF DEMURRER," &c. &c.

"Every man who rises above the common level has received two educations: the first from his teachers; the second, more personal and important, from himself."
Gibbon's Miscellaneous Works, i. 84. ed. 1814.

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PROPOSALS,

&c. &c.

THE practical utility of Lectures as a medium of instruction in the elementary branches of nearly every science and profession, has been too universally felt and acknowledged, to render any observations necessary upon their advantage and general convenience, for the purposes of conveying information. Aided by private study, they are the means by which the principles of the deep and important sciences of divinity and medicine have been inculcated at the leading universities in this and every other country. In some they take a wider range than in others, extending, for instance, in the case of jurisprudence, from the Institutes of Justinian down to the local customs and constitution of their respective countries. Whilst they subtract, but in a trifling degree, from the time allotted to the purposes of study, they neither interfere with, nor abridge other sources of information; and thus while they serve to relieve the monotony of private application, they excite and keep alive the student's attention, and impress the principles of the science more vividly on his mind, by the animating appeal of oral delivery.

THE STUDY OF THE LAW labours under this disadvantage—that its teachers are not men whose only office it is to instruct, but whose attention is engrossed by their daily practice, which renders their duties, as instructors, an additional and not an exclusive occupation. To speak of legal

instruction, is but to use a figure of rhetoric, bold as the expression may seem. A lawyer may advise and direct the student, and may assist him by the elucidation of difficulties; but the one is not a tutor, neither is the other a pupil, in the strict sense of those terms. The pupil's knowledge is derived from reading, and his progress is not ascertained by any course of examination.

Cicero informs us, that in ancient Rome, "The very boys were obliged to learn the twelve tables by heart, as a *carmen necessarium* or indispensable lesson, to imprint on their minds an early knowledge of the laws and constitutions of their country;" and it has been the custom of the Hebrew nation, from its earliest existence as such, to impress on the memory of youth, a knowledge of its laws.

The readings and mootings in the inns of court tended in their day to guide and assist the student in his legal inquiries, and being of an academical nature, they formed a branch of the necessary study of the members, and a strict attention to them was requisite as a qualification for the Bar. But these regulations have lost their principal recommendation. The required attendance is now commuted by a fine, and of the few who are present, still fewer can be supposed to derive any benefit, which might not have been acquired in solitary study.

The distinguished individual,* who, at the close of the last century, delivered a course of Lectures upon the study of the law of nature and nations, observes, that he had long been convinced that public Lectures, which have been used in most ages and countries to teach the elements of almost every part of learning, are the most convenient mode in which these elements can be taught; that they are the best adapted for the important purposes of awakening the attention of the student, of abridging his labours, of guiding his

* Sir James Mackintosh.

inquiries, of relieving the tediousness of private study, and of impressing on his recollection the principles of science.

The popularity of Lectures, as a mode of instruction, joined to the many convincing testimonies in their favour, must have rendered it a matter of surprise and inquiry, why the study of the law should not possess the advantage of this useful and interesting form of introduction. That invidious and lamented exception ceased to exist, on the commencement of the able Lectures on the Theory and Practice of the Laws of England, delivered by Mr. Petersdorff,* during the last and present years;—and if the reception which those discourses received from the younger members of the profession, be an evidence of the worth of such a mode of instruction, no possible objection can remain to the use of Lectures, as a preliminary to legal study. Every improvement has had to struggle in its infancy with the charge of innovation, and this experiment, like all others, can only be justified by an appeal to the event.

The LAW LECTURES now announced, although not precisely resembling those which already have been delivered in their general features, will, in some measure, follow the excellent example which preceded them. Instead, however, of interfering with the general views so ably taken on those occasions, it will be the present Lecturer's object to confine himself to that branch of the profession, with which he is more immediately connected, and with which he may therefore be presumed to be most intimately acquainted, viz.—
THE PRINCIPLES AND PRACTICE OF THE COMMON LAW.

*“ Scilicet est cupidus studiorum quisque suorum,
Tempus et adsuetâ ponere in arte juvat.”*

OVID.

By limiting his scope, he will be enabled to contemplate it

* To this gentleman, as the author of a systematic course of study, the greatest praise is due, as well on account of the novelty of the attempt, the difficulty and responsibility of the task, and the felicity of its execution.

in detail, and by narrowing the object of his proposals, he may the more reasonably expect to fulfil them.

It will be the endeavour of the Lecturer, to give a comprehensive outline of the COMMON LAW of England, as applicable to CIVIL ACTIONS. In the next place, he will propose familiarly to elucidate the JURISDICTION and PRACTICE of the DIFFERENT COURTS, which, indeed, may be considered as of relative value to each other, as well as mutually necessary.

To the LEGAL STUDENT, although the exclusive practice of COMMON LAW may not be his aim, yet the importance of acquiring a knowledge of its principles need not be suggested. The Common Law, indeed, may be termed the key stone of the arch of judicial structure—the source from whence all other divisions of the subject must of necessity emanate, and without which, a knowledge of any other department would be defective and comparatively valueless; since it forms such a leading branch of jurisprudence, which is (to use the eloquent language of Burke), “The collected reason of ages, combining the principles of original justice, with the infinite variety of human concerns.”

The KNOWLEDGE OF PLEADING will form a material branch of these Lectures. Its importance is well known to the members of the legal profession; but to those who are entering on its threshold, and can therefore have had no means of judging of its merits, a few observations will serve to point out its general use and particular application. It is, according to technical phraseology, “the formal mode of alleging *that* on the record, which would be the support or defence of the party in evidence.”

The exhortation of the learned Judge Littleton, in behalf of pleading, is the strongest recommendation of it, that can possibly be used.

“Know my son, it is one of the most honourable, laud-

able, and profitable things in our law, to have the science of well pleading in actions, real and personal; and therefore I counsel thee, especially, to employ thy courage and care to learn this."

The Lecturer, as already hinted, having more particularly devoted himself, in his professional practice as a Special Pleader, to the study of this branch of legal science, it will occupy, in the spirit of the above admonition, a very prominent rank and space in the contemplated discourses.

As it is far from commendable to be acquainted with the form of pleading, and at the same time to be ignorant of the law of the case to which it is applicable, it is therefore of the highest importance to obtain an insight into the theory and practice of this science which, from its extent and occasional difficulty, demands a considerable portion of diligence and perseverance. The student ought to bestow his best attention upon this branch of his studies, which at the present day, is properly accounted an essential part of professional education.

It has been well observed, that actual practice is the surest means of giving firmness and tenacity to legal acquirements; but the first step to knowledge is the acquisition of those principles, of which practice constitutes the result.

In the course of the Lectures, THE PRACTICE OF THE DIFFERENT COURTS will be made the subject of distinct and elaborate inquiry; and indeed, so important has this portion of the subject appeared to his mind, that some of the Lectures will be devoted exclusively to it, in which the various proceedings in an action at law will be detailed, step by step, and illustrated by remarks in the most colloquial style. Thus, while the form of practice will be presented to the attention of the pupil, the law and regulations of the courts, immediately bearing upon it, will be commented upon by the Lecturer, so that the whole may

serve as an easy and familiar guide in the progress of legal proceedings.

The utility of references to legal forms and entries may next be considered. The want of such an indicatory guide is invariably regretted by young men, when its necessity is experienced; and if the selection required be that of precedents in pleading, or of practical forms, the information cannot always be commanded. This impediment it will be the Lecturer's endeavour to remove, by pointing out immediate references on those matters, which, from not being of constant occurrence in practice, are the more difficult of access, and most perplexing to the student. He will thus obtain an insight into the principles and practice of the law; so that, while his ear becomes familiarized to them in the course of the Lecture, his eye will easily trace them in the detail of his profession.

These Lectures are not in any respect intended to supersede the practice of the student placing himself under the tuition of some experienced professional gentleman. To those who intend to follow the Bar as a profession, two or three years, diligently employed by them in the office of a barrister or pleader, will much assist their views; and while they will thus have an opportunity of consulting a good library of reference, copying precedents, and drawing pleadings, they will also be entitled to claim at his hands instruction in the principles and practice of the Law. To those who intend to become Solicitors or Attornies, the same plan can with confidence be recommended; and, indeed, so favourably has this subject been considered by the legislature, that any person, articulated for five years, is entitled "to go as a pupil,"* for the space of one year, to a practising barrister, or certificated special pleader.

In entering upon the present undertaking, the Lecturer

* 1 & 2 Geo. IV. c. 48. s. 2.

flatters himself its utility will extend even beyond those persons for whom it is principally designed. The *practitioner* has often to complain of indifference and negligence on the part of his pupil ; and he finds that where he has only undertaken to sow the seed, he has to break up the ground. *He* surely has an interest in a project which offers to create an impulse in the mind of the pupil, to lay down a map of his future course, and to proportion his exertions at the beginning, by showing him what is required to attain the end. Nor should it be omitted, that many, who are occupied with other branches of the Law, wish to obtain some knowledge of this one in particular, without having time to make it an object of study. To such, the proposed plan offers peculiar advantages ; and had their case alone been contemplated on this occasion, the Lecturer would still be justified in asserting the utility of his plan.

To those gentlemen who are under articles, the advantages to be derived from a course of Lectures, on this important branch of legal knowledge, are worthy of particular attention ; as in practice, the whole detail of a cause generally rests in the hands of the attorney or solicitor, and the management of its course is to be dictated by his judgment, it cannot be viewed otherwise than as a material point for them to become intimately conversant, not only with the practice itself, but with the elementary principles of both Law and Pleading. Indeed, when we consider the vast importance of many suits, and the intricate proceedings that often spring from them, it is not saying too much to observe, that every practitioner in Common Law, whose object it is to maintain an enviable rank in his profession, should be tolerably familiar with the leading features of the Law, the elementary principles of Pleading—and the detail of Practice. And it must be viewed as no unimportant part of his duty, that he is continually called

upon, in the exercise of his profession, to state cases for the information of Counsel, and to attend at consultations, and also to prepare "*instructions*" for his pleader. Without some knowledge of these particular points, an attorney will often feel and lament his deficiency ; and it therefore requires but little reasoning to prove, that every member of the profession is required to possess an accurate acquaintance with the Law.

The alterations, contemplated under the Common Law Commission, are well deserving of the most accurate attention, and it will therefore be the especial care of the Lecturer to notice them during their progress, in order that the student may not be encumbering his mind with obsolete forms and practice, when he ought only to be nurturing in his memory the new course of proceeding.

The Course of Lectures will consist of twenty-six, in two divisions. The FIRST division, containing thirteen (including the Introductory Lecture), will treat upon the theory of law, and generally of rights, parties to suits, the nature and forms of actions, &c. The SECOND division (comprising the remaining thirteen) will be devoted to the constitution and practice of the different courts, as exemplified in *Actions at Law*.

The first division of the Lectures (commencing with the Introductory Discourse upon Wednesday, the 10th of June), will be delivered during that month, and July : on Friday, the 31st of which, being upon the eve of the circuits, it will be concluded. The second division (commencing on Monday, the 19th of October), will be delivered during that, and the succeeding month. And the whole of the present course will be completed on Monday, the 30th of November.

The Terms of Subscription for the entire course will be Two Guineas ; and cards of admission, may be had of

Messrs. J. and W. T. Clarke, Portugal Street; Messrs. Saunders and Benning, 43, Fleet Street; Mr. H. Butterworth, 7, Fleet Street; of all the other principal Law Booksellers; and of Mr. Mansel's Clerk, No. 2, Essex Court, Temple.

May 23rd, 1829.

*Text Heads of the several Lectures which will
compose the First Division.*

- I.—INTRODUCTORY Lecture on the Study of the Common Law of England, as applicable to Civil Actions—Pleading, Practice, Course of Study recommended, Choice of Books, &c. .
- II.—Common Law and Statute Law.
- III.—Rights of Persons.
- IV.—Rights of Things.
- V.—Property, in Things.
- VI.—Property, real.
- VII.—Conveyances.
- VIII.—Contracts.
- IX.—Wrongs.
- X.—Plaintiffs in Actions of Contract, Tort, &c.
- XI.—Defendants in Actions of Contract, Tort, &c.
- XII.—Personal Actions *ex Contractu*.
- XIII.—Personal Actions *ex Delicto*.

*Text Heads of the several Lectures which will
compose the Second Division.*

- XIV.—Real and Mixed Actions.
- XV.—Courts generally.
- XVI.—Jurisdiction of the K. B., C. P., and Exchequer.
- XVII.—Practice of the Courts before Declaration.
- XVIII.—Collateral Proceedings in a Suit.
- XIX.—Declaring, Rules of Pleading, &c.
- XX.—Proceedings before Pleading in Bar.
- XXI.—Pleas in Bar, &c.
- XXII.—Demurrer and Amendment.
- XXIII.—Issue, Records, Trial, &c.
- XXIV.—Evidence.
- XXV.—Verdict, &c. Judgment, &c.
- XXVI.—Scire Facias, Error, &c.—Conclusion.

ANALYTICAL OUTLINE.

FIRST DIVISION.

Section I.

INTRODUCTORY LECTURE I.

Wednesday, June 10, 1929.

ON THE STUDY OF THE COMMON LAW OF ENGLAND, AS
APPLICABLE TO CIVIL ACTIONS.

LAW, in general, its Kinds.—1. Civil. 2. Common. 3. Statute. General Principles of Law, Courts, Actions, Pleadings, Practice. Study of the Law. Course of Study recommended. Choice of Books. General Observations.

LECTURE II.

Monday, June 22, 1929.

COMMON LAW AND STATUTE LAW.

COMMON LAW, Definition of.—Rise, Progress, Changes. State upon the Introduction of the Statute Law. General Review of it, as operating from that time down to the present period.

STATUTE LAW, Definition of.—Origin, Progress, Form. By what Authority made. Its Force. How Construed. Its Present State. General Review of it.

LECTURE III.

Friday, June 26, 1929.

RIGHTS OF PERSONS.

I. RELATING TO THEMSELVES.—1. In their own Capacity. 2. *En autre Droit*, as Corporate Bodies. 3. In a Representative Sense, as Heirs, Executors, Administrators, &c.

II. BY RELATION of *Three Kinds*.—1. Political. 2. Economical, or Conventional. 3. Civil.

Political.—The Magistrate. The Subject.

Economical or Conventional.—Husband and Wife. Parent and Child. Master and Servant.

Civil.—Ancestor and Heir. Lord and Tenant. Guardian and Ward.

BODIES POLITIC—created by Operation of Law.—1. Ecclesiastical. 2. Temporal.

LECTURE IV.

Monday, June 29, 1829.

RIGHTS OF THINGS.

OF TWO KINDS.—1. Temporal. 2. Ecclesiastical.

TEMPORAL.—1. Of Public Right. 2. Of Private Right.

Of Public Right.—1. Commona. 2. Highways. 3. Bridges. 4. Rivers. 5. Ports. 6. Ferries.

Of Private Right.—1. Things Personal. 2. Things Real.

Things Personal.—Of two kinds. 1. In Possession. 2. In Action.

In Possession.—Money, Plate, Cattle of all Sorts, Emblements.

In Action.—Are Rights of Personal things which are *not* in Possession.—1. Debts—by Parol, Specialty, Record. 2. Goods, *not* in Possession. 3. Right to Damages unliquidated, as upon Promises and Covenants broken. 4. Legacies—Legacies charged on Land, Chattels Real, Specific, &c. 5. Accounts, &c. Annuities, which are partly in Action, partly in Possession.

Things Real.—1. Corporeal, *Manureable*.—1. Simple. 2. Aggregate.

1. *Simple*.—Lands, *comprising*, a Messuage, a Cottage, a Mill, a Toft, a Garden, an Orchard—Land, Arable, Meadow, Pasture—Wood, Marsh, Moor, Furze, and Heath.

2. *Aggregate*, consisting of several Natures.—1. *Quasi corporeal*—Honours, Manors, Demeanes, Reversions, Services, Rectories, Glebe, Tithes, Mills, Farms, &c. 2. *Incorporeal*,* *not in their own nature*, but so named from the degree in which they stand. 1. Reversions. 2. Remainders.

In their own Nature.—*Rents* reserved, Rent-service, Charge, Seck—Homage, Fealty. *Advowsons*.—1. Donative. 2. Presentative.

Tithes.—1. Personal. 2. Prædial.

Commons.—Of Eatovers, Pasture. 1. Appendant. 2. Appurtenant for Cattle certain, *sans nombre separabilis pastura*. Herbage, Pawnage, Pensions, Offices, Franchises, Liberties, Dignities.

* The common incident of incorporeal real things is, that they pass *not* from one Person to another *without* deed.

ECCLESIASTICAL.—1. *In Use*—Churches, Chapels, Church-yards, &c.
Their Nature.—1. Dignities. 2. Benefices.

1. Dignities.—1. Superior. Archbishopsricks, Bishopricks.

2. Inferior. Deans, Chancellors, Precentors.

2. Benefices.—1. *With Cure.* Parsonages, Vicarages, &c.

2. *Without Cure.* Prebends, Hospitals.

Section H.

LECTURE V.

Friday, July 3, 1829.

PROPERTY IN THINGS.

I. IN THINGS.—1. By Bailment. 2. Pledged. 3. *Conditionally granted.*
 4. *Demised for a Term.*

1. *From their State*—as Birds in a Nest upon a Tree.
the Place—as Rabbits.

Privilege—as Birds or Beasts of Warren, and Swans.

II. CAPACITY.—1. In our own Right. 2. Right of Another.

III. ACQUISITION OF.—1. By Act of Law. 2. Of the Party. 3. Both.

1. *By Act of Law*—1. By Succession. 2. Devolution. 3. Prerogative.

4. Custom. 5. Judgment and Execution. 6. Sale in Market overt.

2. *The Party*—1. By Grant. 2. Contract. 3. Assignment.

3. *Both*—1. By Forfeiture. 2. Outlawry. 3. Attainder.

LECTURE VI.

Monday, July 6, 1829.

PROPERTY REAL.

ESTATES at Common Law.—1. Of Inheritance. 2. *Less than Freehold.*

1. Of Inheritance—1. Fee-simple. 2. Fee-tail.

Fee-simple—1. Absolute. 2. Qualified.

Fee-tail—1. General. 2. Special. 3. After Possibility of Issue extinct.

2. *Less than Inheritance*—1. Freehold. 2. *Less than Freehold.*

1. Freehold—1. Arising by Act of Law. 2. Of the Party.

2. *Less than Freehold*—1. Certain. 2. Uncertain.

TITLE of an Estate.—1. By Condition broken. 2. Forfeiture.

RIGHT of an Estate—1. Remediable. 2. Remediless.

Remediable—1. By Right of Entry. 2. Of Action.

Remediless—1. Where the remedy is gone, *though the Right remains*.

TRANSMISSION of Estates, or Interest—1. By Act of Law. 2. Of the Party.

DESCENTS in Fee-simple, and by Conveyances, by Act of Law—1. By Custom. 2. Common Law. 3. Escheat.

By Act of the Party—1. By Wrong. 2. Right or Title. 3. Conveyance. 4. Forfeiture.

Conveyances—1. By Matter of Record. 2. In Pais.

1. *By Matter of Record*—1. Fine. 2. Common Recovery. 3. Deed Enrolled.

1. *Fine*—2. At Common Law. 3. With Proclamations.

2. *Common Recoveries*—1. Treble. 2. Double. 3. Single, Voucher.
1. Upon Fee-simple. 2. Estates Tail. 3. Remainders.
4. Reversions, &c.

3. *Deeds Enrolled*—1. By Special Custom. 2. At Common Law.
3. Of Bargain and Sale, by Stat. 27.—H. VIII.

LECTURE VII.

Friday, July 10, 1829.

CONVEYANCES.

1. *With Deed*. 2. *Without Deed*.

1. *With Deed*—1. Charters. 2. Grants. 3. Feoffments. 4. Leases.
5. Releases. 6. Confirmations.

DEEDS—1. Indented. 2. Poll—1. Estoppel. 2. Livery of Seisin. 3. Attornment, *when used*—1. Stamp. 2. Parties to. 3. Names. 4. Description. 5. *Effectual Words to pass the Interest as*—1. *Grant*. 2. *Bargain*. 3. *Sell*. 4. *Enfeoff*, &c. 5. Premises.—Things, 1. In Gross. 2. Parcel. 3. Appendant or Appurtenant.—6. Habendum. 7. Reddendum. 8. Covenants.—1. *Which run with the land*. 2. *Which do not*.—9. Conditions. 10. Signing. 11. Sealing. 12. Delivering.—1. Absolutely. 2. Conditionally, as an Escrow.

BY STATUTE—1. Bargain and Sale. 2. By Way of Use.—1 *With Possession*, by Feoffment or Fine. 2. *Without*, by Covenant to stand seized. 3. Devise.

CUSTOMARY ESTATES—*Custom, the Essence of*, are grantable.—1. In Fee-simple. 2. Tail. 3. For Life, or Lives.

Transfer of—1. By Descent. 2. Surrender.—1. In Court. 2. Out of Court, *Effect of*.

RIGHTS—1. Of Lord. 2. Of Copyholder. 3. Steward.

FORFEITURE—1. By Waste. 2. Alienation. 3. Refusal to pay Fine, and perform Services, &c.

TRANSMISSION of Property—1. By Forfeiture. 2. Attainder, for Treason, Felony, &c.

LECTURE VIII.

Monday, July 13, 1829.

CONTRACTS.

1. **VERBAL, or PAROL.** 2. In Writing, *not* Under Seal. 3. Under Seal.
 1. **OF SALE.** 2. Labour. 3. Service. 4. Lending of Money. 5. Inconsumable Property.
- CONSIDERATION OF**—*when sufficient, what required; illegal*—1. At Common Law. 2. By Statute.
- THE AGREEMENT**—the Thing to be done.
 1. *Express.* 2. *Implied*, executory, executed. Goods, Horses, Work and Labour, &c.
- NEGLECT**—1. Ordinary. 2. Gross. 3. Slight. Hiring, borrowing, Insurance.
- DEBT, generally**—1. Simple Contract. 2. By Specialty. 3. On Record. *BILLS of Exchange*—1. Inland. 2. Foreign.
- COVENANTS**—Under Seal, how made, Form of, Consideration for, when necessary, when *not*, Condition, Defeasance, Illegality of, &c.
- RELEASE, generally.**

LECTURE IX.

Friday, July 17, 1829.

WRONGS.

- I. **IMMEDIATE.**—*Trespass to Land, Persons, Personal Property. Nuisances, Disturbances*—1. Of a Church. 2. Franchises, Tolls, Offices, &c. &c. 3. Commons. 4. Ways, Ferries, Pews. Waste. Mesne Profits. Ejectment and Farm. Criminal Conversation. Battery of Wife, or Servant, *per quod servitium amisit*.
- II. **CONSEQUENTIAL.**—1. Malfeasance. 2. Misfeasance. 3. Nonfeasance.
 1. *Malfeasance.*—Nuisances, using Property to the Injury of another, keeping noxious Animals, Libels, or written Slander, Defamation or unwritten Slander, *Scandalum Magnatum*, Malicious Prosecutions, in—
 1. Civil Suits. 2. Criminal Charges. Maintenance. Seducing and harbouring Wives, Daughters, Journeymen, Apprentices.



2. *Misfeasance*, for—1. Escapes. 2. False Returns. 3. Taking insufficient Bail. *On the Custom of the Realm*, against—1. Innkeepers. 2. Carriers, &c. In the immoderate Use of Horses, &c. lent to hire.
- For Deceit, in the Sale of Goods. Excessive Distresses. Irregularities in making Distresses. Rescue. Pound Breach. Carrying on Trades in prohibited Places. Piracies, and infringing Copyrights. Imitating Inventions. *Negligence*—1. In navigating and mooring Vessels and Ships. 2. Driving Carriages. 3. Performing Works.
- On Statutes—By Party grieved, against Sheriffs for taking Goods off Premises, under a *fiery facias*, with Notice of a Year's Rent being due to Landlord, and without satisfying same; for refusing sufficient Bail; for Extortion; not taking Deposit of Debt, and £10 for Costs, from Defendant arrested on Mesne Process, and releasing him; against Justices, &c. against the Hundred, under Stat. 7 and 8, Geo. IV. c. 30.
3. *Nonfeasance*.—1. Not carrying Tithes. 2. Not repairing Fences, &c. In Neglect to perform Duties; arising—1. On the Custom of the Realm. 2. by Statute, as against Sheriffs, &c. in not taking Replevin Bond. For taking insufficient Sureties in Replevin. Not assigning Bail Bond, &c. Against Witness for not obeying *Subpena*, &c. *Ex contractu*, &c.

Section III.

LECTURE X.

Monday, July 20, 1829.

PLAINTIFFS IN ACTIONS OF CONTRACT, TORT, &c.

Ex contractu.

In whom the legal Interest is vested. Consignor. Consignee. Bailor. Bailee. Trustee. Servant. Agent. Auctioneer. Policy Broker. Carrier. Factor. Several Plaintiffs. Joint Contract. Several Contract. Obligees. Covenantors. Partners. Bankruptcy of one, Effect of. Joint-tenants. Parteners. Tenants in Common. Choses in Action, assignable by the King—*Contra*, by a Subject. Assignor must sue, though for Benefit of Assignee. Promise to pay Assignee for some new Consideration. When Assignee may sue in his own Name—1. *By Custom of Merchants*, on a Bill of Exchange, Cheque on a Banker. 2. *By Statutes*, Upon a Promissory Note, Bail Bond, Replevin Bond, Judgment by Confession (in Ireland), by Overseers or Parish Officers on a Bastardy Bond. The Treasurer, or other Officer, or Trustees, of Friendly Societies upon Securities belonging to them, under Stat. 33 Geo. III. c. 54.—49 Geo. III. c. 125.—59 Geo. III. c. 128. Upon Bills of Lading, India Dock-warrants, India Bonds, Scotch Bonds, upon an Irish Judgment by *Cognovit*. Upon Covenants running with the Land—1. To reside on the Pre-

misses, Repair, Insure, pay Rent, for quiet Enjoyment, for good Tide. *Assignees by Operation of Law*, of a Bankrupt, 6 Geo. IV. c. 16. Insolvent Debtor, 7 Geo. IV. c. 57. Prisoner discharged under the Lords' Acts, 32 Geo. II. c. 28—26 Geo. III. c. 44—33 Geo. III. c. 5—39 Geo. III. c. 50. Several Obligees, Survivors, Partners, Survivors. In a *representative Character*—Executors, Administrators, of surviving Obligee, or Partner; *all* must join. Omission, Effect of. Heir, Devisee, Marriage of Executrix, or Administratrix. Executor of Executor, *Administrator de bonis non* of Testator. Corporation, Successors to former, Revival of.

BANKRUPTCY.—*Assignees*, *all* must join; provisional Assignee, Action brought in Name of Bankrupt, Interference of Assignees, Nonjoinder of any of them, Effect of, Removal of, of one of *several* Partners; Suing, in the Name of solvent Partners, and Assignees of Bankrupt, Contracts with Assignees *after* the Bankruptcy, Wife of Bankrupt, Choses in Action, Assignment of to third Person, &c.

Insolvent Debtor, Prisoner under the Lords' Acts.

Assignees—how appointed, Powers, Duties, &c.

Marriage—Choses in Action, personal Property, Interest of Wife, *en autre Droit*, how vesting in Husband, jointly with Wife, Action by Husband alone, general Principle, Joinder of *Husband and Wife* when required, when optional, when Wife cannot join, when she may, *as* if the meritorious Cause of Action, for Rent, Profits of her Estate, Covenants concerning her Estate.

Mis-joinder of Wife, Non-joinder, Husband suing alone, *Feme sole*, Trader in London.

Survivor, Husband—Choses in Action, as Administrator of Wife, upon Judgment before Death of Wife, Chattels real, pass to the Husband, Rent, and Chattels of Wife, but not if *en autre Droit*.

Survivor, Wife—right of, to, 1. Chattels real. 2. Arrears of Rent due *before* Coverture, *during* Coverture. 3. Debt upon Judgment, obtained by Husband and Wife. 4. Bond, to her and her Husband; to her alone. 5. Rights of Action *en autre Droit*. 6. May proceed in Suit commenced in their *joint* Names.

PLAINTIFFS IN ACTIONS, EX DELICTO.

PLAINTIFF; the Party whose legal Interest has been affected, unless in those Classes of Cases, where an Injury to the *mere Possession*, will entitle the Party actually in *Possession* to maintain an Action.

RIGHTS, upon which actions of Tort are founded, are of two Kinds,—

1. Absolute. 2. Relative.

Absolute, where they affect the Party in his Person, Name, Reputation, Property.

Relative, for an Injury to a Wife, Servant, Apprentice.

REAL PROPERTY, Possession by Wrong, in lawful Right, *actual Possession*; *constructive*, insufficient.

PERSONAL PROPERTY—Property in, draws to it Possession, Right of *immediate* Possession, Title Deeds, *special* Property, *with* Possession; in Servants *not* responsible.

Plaintiffs, *jointly* interested, must join.

INJURIES to the Person—False Imprisonment, Battery, Assault, Slander. Who should sue for.

Partners in Trade, Husband and Wife, Tenants in common, Joint-tenants, Parceners, Joinder, in Actions for Injuries to personal Property.

Parceners, Tenants in Common; Joint-tenants, Joinder of, in Actions for Injuries to real Property.

Nonjoinder, Misjoinder, Effect of.

Choses in Action, when assignable, when *not*.

Survivors, Partners, Death of one of Co-plaintiffs, if Action survives, if *not*.

Maxim, *actio personalis moritur cum personâ* considered, Exception by 4. Edw. III. c. 7, how construed in regard to personal Property.

BANKRUPTCY, INSOLVENCY, &c.—what Rights of Action *ex delicto* pass, what do *not*.

MARRIAGE—Joinder by Husband and Wife in Action, for malicious Prosecution, when required, if the Cause would survive to Wife, in respect of personal Chattels, Charters, &c. When Husband and Wife *must* join, *may* join, *must not* join. Survivorship; Husband, Wife. Nonjoinder, Misjoinder.

LECTURE XI.

Friday, July 24, 1829.

DEFENDANTS IN ACTIONS OF CONTRACT, TORT, &c.

Ex Contractu.

EXPRESS CONTRACTS, implied Contracts, legal Liability. Principal. Agent. Factor. Trustee. Stakeholder. Partners, Liabilities *inter se*, &c. Tenants in Common. Parceners. Joint-tenants. Account stated. Contribution.

PARTNERS—who, how liable, nominal Partners, Infants.

BANKRUPT, INSOLVENT, COPARCENERS—*before*; *after* Partition.

JOINT CONTRACTORS—Actions against, Omission of one, how taken Advantage of—Joint and several Contracts, Option as to suing upon.

Joinder of Parties—Rules respecting, Effect, if wrong.

Change of Credit—how it operates as to personal Chattels.

COVENANTS—by Lessee, *express*, *implied*; Effect of, upon Assignment of Premises to an Assignee, Bankruptcy, Insolvency.

ASSIGNEE—Covenants running with the Land, how affecting, *Collateral*, by Way of Mortgage, of Part of the Premises. **UNDER LESSEE**—when liable.

Survivorship, general Liability from—Executor, or Administrator of Survivor, Executor, or Administrator of contracting Party, Executor *de son tort*, Assets, Executors or Administrators, Marriage of Feme Executrix, &c. Joinder of Husband.

Heir, Devisee—when liable, Exception, Assets.

Heirs, Devisees, &c. generally.

BANKRUPTCY—Debts due at Date of Commission. What proveable, Rent, Assignees. Certificate, Effect of, Promise *after* Certificate.

Insolvents—Prisoners discharged under the Lords' Acts. Discharge, Effect of, upon their Debts, their Persons. Promise *after* Discharge.

MARRIAGE—Contracts *before*, Action how brought, Effect of Mistake, Contracts *after*, Husband *civilliter mortuus*, transported; Feme Executrix.

Survivorship—Husband, Wife, Bankruptcy and Certificate of Husband. Nonjoinder, Misjoinder.

DEFENDANTS IN ACTIONS, EX DELICTO.

TORTFEASORS—by themselves, Agents, Trustees, *Cestui que trusts*, Tenants in common, Co-parceners, Joint-tenants, *Several Liability*, how created, by actual Committal, previous, or subsequent Assent, Principals, Masters, Servants, Sheriffs, Carriers, Innkeepers; Owners of Animals, *feras natura*, or *mansuetas natura*.

TO REAL PROPERTY—by Nonfeasance, Malfeasance, Misfeasance.

Actions—against several Tortfeasors, when maintainable, when not, Nonjoinder, Misjoinder.

Assignment of Estate or Interest—Continuance of Nuisance, &c. &c.

Against Representatives, for a *devastavit*, for Dilapidations by deceased Incumbent, &c.

Bankruptcy—Continuance of Liability *after*. Damages assessed *before* Bankruptcy, Insolvents, Prisoners discharged under the Lords' Acts. *Mesne Profits*—Marriage, Torts by Feme *before*, by Feme *after*, by both. Trespass of Feme, how it may arise, by actual Interference, *not* by Assent, either previous or subsequent, Death of Feme, *before* Judgment, Death of Husband, Certificate, Nonjoinder, Misjoinder.

Section IV.

LECTURE XII.

Monday, July 27, 1829.

PERSONAL ACTIONS, EX CONTRACTU.

ACCOUNT—when it lies, Pleadings in, Judgment, Costs.

ASSUMPSIT—defined, upon Contracts, *Express*, *Implied*—1. *Indebitatus Assumpsit*, to pay a precedent Debt. 2. *Quantum meruit*, *Quantum valebant*, on Promises to pay so much as the Party deserved, or the Goods were worth. 3. *Insimul computasset*, Account stated. 4. *Liability Assumpsit*, upon Promises to pay Money, in Consideration of Liability in Law to pay it. 5. *Mutual Promises*. 6. *Special Assumpsit*, on Promises to pay Money on an executory Consideration, implied Contracts. Breach of Contract; Pleadings in, Damages, Judgment, Costs.

COVENANT defined—in what Cases it lies, Pleadings in, Damages, Judgment, Costs.

DEBT defined—upon simple Contract, in *malgheio*, upon Deeds, Specialties, Records, Recognizances, upon penal Statutes, upon Statutes in Favour of the Party grieved, Pleadings in, Judgment, Costs.

ANNUITY—defined, when it lies, Pleadings in, Judgment, Costs.

DETINUE—defined, when it lies, upon Bailment, Purchase, or Finding, Pleadings in, Damages, Judgment, Costs.

LECTURE XIII.

Friday, July 31, 1829.

PERSONAL ACTIONS, *EX DELICTO*.

CASE—1. *Quasi, ex contractu*. 2. *Ex delicto*.

1. *Quasi ex contractu*, as Deceit, on the Sale of Goods, or Cattle. For immoderate Use of them when let for Hire, against Carriers, Innkeepers, Farmers, &c.

Ex delicto—Trove, Negligence, consequential Injuries. To real Property, *Corporeal, quasi ex contractu*, for Waste, &c. To Persons *individually, quasi ex contractu*, against Surgeons, &c. To Persons *relatively*. On Statutes, &c. Pleadings in, Damages, Judgment, Costs.

REFLEVIN—Nature of, when it lies, for a Distress, or unlawful taking. Pleadings in, Damages, Judgment, Costs.

TRESPASS—To real Property, to personal Property, to Persons, defined, Distinction from *Case*. Pleadings in, Damages, Judgment, Costs.

ANALYTICAL OUTLINE.

SECOND DIVISION.

Section I.

LECTURE XIV.

Monday, October 19, 1929.

REAL AND MIXED ACTIONS.

REAL ACTIONS—defined, 1. Writs of Right. 2. Writs of Entry. 3. Possessory ancestral Writs, *præcipe quod reddat*. 4. Writs commencing *si te fecerit securum*.

1. *Writs of Right*—1. Patent, Right close. 2. Of Dower, *de rationabili parte, sur disclaimer*, Escheat, Formedon, *Quod ei deforceat*.

2. *Writs of Entry*, in the *per, cui, post, Amizé*, &c. Writs of Intrusion, *Cui in villâ, Cui ante divorcium, Sur cui in villâ, Dum non fuit compos Mentis, Dum fuit infra Ætatem*, Writs of Entry at Common Law, *Ad terminum qui præterit, Causâ matrimonii prælocuti, Sine assensu capituli*.

3. Writs of *Ayel, Desoyel, Cousinage*. 4. *Nuper obiit, Mort d'ancestor*.

MIXED ACTIONS—1. *Novel disseisin*, Writs of *Annuity, Quare impedit, Juris utrum, Darrein presentment. Curia claudendâ, Warrantia charta. Ejectione firme, Quo jure, Quod permittat, Breve de medio, Breve de consuetudinibus, et servitiis, Secta ad molendinum, Partitions faciendâ*, Writ of Covenant real, *Deceit, Quod ei deforceat*, Entry upon the Stat. 5, Rich. II. 7.—Stat. 12, Rich. II. 7.—Stat. 8, Hen. VI. 9.—Stat. 13, Eliz. 11.—Stat. 21, Jac. 15. *Re-disseisin and Post-disseisin, Assize, Waste*.

Pleadings in, Judgment, Costs, Ejectment, Practice, Judgment, Execution, Costs.

LECTURE XV.

Friday, October 23, 1829.

COURTS GENERALLY.

THEIR Constitution.—1. COURTS *of Record*. 2. Courts *not of Record*.

Courts of Record.—1. The Supreme Court of Parliament. 2. The House of Lords. 3. The Petty Bag Office in Chancery. 4. The King's Bench. 5. The Common Pleas. 6. The Law Side of the Exchequer. 7. The Court of *Nisi Prius*. 8. Courts of the Counties Palatine, of Durham, Lancaster, Chester. 9. The great Sessions in Wales. 10. Palace Court, and inferior Courts *of Record*, Courts, in London, &c.

Not of Record.—County Courts, Courts-Baron, Pie-Poudre Courts, Courts of Requests, &c.

SERGEANTS AT LAW, BARRISTERS—Call to the Bar, Oaths, &c., Privileges, &c.

CERTIFICATED SPECIAL PLEADERS—Certificates, &c.

ATTORNIES—Clerkship, Articles, Oaths, Admission, Certificates, Privileges, Duties, Liabilities.

TERMS, RETURNS, &c.

Section III.

LECTURE XVI.

Friday, October 26, 1829.

THE JURISDICTION OF THE KING'S BENCH, COMMON PLEAS,
AND OF THE LAW SIDE OF THE EXCHEQUER, I.E. EX-
CHEQUER OF PLEAS.

IN THE KING'S BENCH—by 1. Original Writ.—1. *Præcipe quod reddat*. 2. *Si se fecerit securum*.—2. Attachment of Privilege, at the Suit of Officers, and Attornies of the Court.

By Bill.—1. Against the Officers, and Attornies of the Court. 2. Against Members of the House of Commons. 3. *In Trespass*, to found the Jurisdiction of the Court, when the Venue is otherwise than in Middlesex, or where the Court sits. 4. Against Prisoners—1. In the *actual*, or *supposed* Custody of the Marshal, at Common Law. 2. In the Custody of the Sheriff, or of Officer of a particular Franchise, on the Stat. 4 and 5 Will. and Mary, c. 21, s. 3.

IN THE COMMON PLEAS—1. By original Writ, and *capias quare clausum fregit*. 2. Against the Serjeants and Officers of the Court. 3. Attachment of Privilege, at the Suit of the Attornies and Officers of the Court.

2. Bill—1. Against Attornies. 2. Members of the House of Commons.

IN THE EXCHEQUER OF PLEAS—By Bill, 1. *Venire facias ad respondendum*. 2. *Subpoena ad respondendum*. 3. *Quominus capias*. 4. *Without Process*, against Officers, Attornies and Side-clerks.

IN INFERIOR COURTS—1. Plaint. 2. Original Writ of *Justicies*.

LECTURE XVII.

Friday, October 30, 1829.

PRACTICE OF THE COURTS BEFORE DECLARATION.

1. RETAINER of Attorney. 2. Notice of Action. 3. Demand of Warrant. 4. Infants, Paupers. 5. Original Writ, Summons, Attachment, *Distringas*, Remedies against the Hundred, Corporation, *Capias*, Summons, and Severance, Outlawry, Waiver.

IN THE KING'S BENCH.—Bill of Middlesex, *Latitat*, *ac etiam Clause*.

IN THE COMMON PLEAS.—*Capias quare clausum fregit*, *ac etiam Clause*; *Capias* by Continuance.

IN THE EXCHEQUER OF PLEAS.—*Venire facias*, *Subpoena*, *Quominus capias*; *ad respondendum*; Indorsement of Writ, by Attorney, Name, &c., Date, Defects in Process.

ARREST, for what Cause of Action allowed; by Leave of the Court, in what Cases.

SERVICE of Process—Copy, Notice to Defendant, Form of, how served, at what Time.

AFFIDAVIT of Debt—for what Causes of Action, second Arrest for the same Cause of Action, Maxim of *nemo debet bis vexari pro eadem causa*, by whom made, Form of, before whom sworn, Title of, made abroad, Defects in, Duration of:

PRIVILEGE from Arrest—of Persons, of Places, Temporary.

ARREST—by whom made, Warrant of Sheriff, *non omittas Clause*, Time, Sunday, Place, how made, Detainer.

BAIL, 23 Hen. VI. c. 9, Bond—Form of, compulsory on Sheriff, render of Prisoner to Sheriff, Deposit to Sheriff under 43 Geo. II. c. 46, s. 2. Undertaking of Attorney to Plaintiff, Sheriff's Duty on Arrest, Fees of Sheriff, from Plaintiffs, from Defendants, Escape, Rescue.

APPEARANCE—in King's Bench, common Bail. In Common Pleas, Appearance. In Exchequer, Appearance. By Plaintiff for Defendant, when allowed, under 12 Geo. I. c. 29—5 Geo. II. c. 27.

SPECIAL BAIL.—What, Qualification, Deposit in lieu of Bail, under 7 and 8 Geo. IV. c. 71. s. 2, when put in, how put in, in London, in the Country, Description of Bail, in Bail Piece, absolute, conditionally, Notice of putting in, Exception, added Bail, Notice of Justification, Justification in Court, by Affidavit. Opposition, Grounds of, Time allowed to justify, Mis-

conduct of Bail, Allowance of Bail, Rejection. Entry of Recognizance on the Roll, Bail by Prisoners, Liability of Bail, Render of Principal, at what Time allowed, as a Matter of Right *ex debito justitiæ*, Grace and Favour, *Committitur*, Notice of Render, how Bail are discharged, *Exoneretur*.

Assignment of Bail Bond—how made, at what Time regular, Proceedings upon, Liability of Bail upon.

Sheriff—Rule to return Writ, Service of, Return to, Rule to bring in the Body, Duty upon, Service of, Attachment against Sheriff, Liability of Sheriff upon Attachment, how and when relieved.

LECTURE XVIII.

Monday, November 2, 1829.

COLLATERAL PROCEEDINGS IN A SUIT.

PROCEEDINGS—against Attornies, Marshal, Warden; Prisoners, in Custody of Sheriff, or Officer of Franchise; Detainee, Affidavit, Appearance, Time for pleading.

HABEAS CORPUS, *ad respondendum; ad faciendum, et recipiendum; et cum causâ ad satisfaciendum.*

PRISONERS—in Custody of the Marshal, Warden, how charged, Affidavit, Appearance, Time for pleading.

Declaration, Trial, final Judgment, *Committitur*, *Superveneas*.

Rules of King's Bench, Common Pleas, Exchequer—Day Rules, Lords' Acts, compulsory Clause; Prisoners in Execution, for not more than £20, exclusive of Costs, 48 Geo. III. c. 123.

REMOVAL of Causes—*Certiorari*, when it lies, Practice upon, *Habeas Corpus*, when it lies, Practice upon, how far these Writs operate, in Causes, for not more than £5, when above £5, and under £20, for £20, and above. Recognizance, Bail, special, common, Liability of, *Procedendo*.

Pone per vos, Recordari factas loquela, Accedas ad curiam.

Prohibition, &c. &c.

Section III.

LECTURE XIX.

Friday, November 6, 1829.

DECLARING, RULES OF PLEADING, &c.

DECLARATION—in chief, by the bye, at what Time, Rule to Declare.

PLEADING—Definition of, Divisions, Declaration, Oyer, Plea, in Abatement, in Bar, Replication, Rejoinder, Sur-rejoinder, Rebutter, Sur-rebutter.

INSTRUCTIONS—for *Præcipe*, or Declaration, Form of, generally. TITLE of Court, Term, VENUE, Local, Transitory, in inferior Courts, Commencement, special Memorandum, Plaintiff, Defendant, Jurisdiction of Court, Nature of Complaint, how stated.

Joinder of Actions, in what Cases allowable, Rights of Actions, Liabilities, in a personal Right, *en autre Droit*, Misjoinder, Effect of, how cured.

Structure of Pleading, Mode, and Form of Allegation, Facts necessary to be stated, Facts, and Matters of which the Courts will *ex officio* take Notice, general Rules.

Certainty—of Parties, Time.

Venue, in Replevin, place; local, transitory, Debt for Rent, Covenant on a Demise, Judgments and Recognizances, Welsh Judicature Act, mode of laying against Justices of the Peace, &c. Informations, Complaints, Penal Statutes, in either of two Counties, generally.

Certainty—in Inducement, Declaration must be sensible, Construction of Words. Where the certainty lies within Defendant's Notice, Surplusage, Inducement, Uncertainty, Duplicity, Title, Seisin, derivative Estate, Conveyance, how pleaded, Custom, Prescription, Possession, Consideration, Definition of, when sufficient, in what Cases required. Promise, defined, Averment, Condition Precedent, Mutual Agreements, Performance, how shown in pleading, in general Terms. Continuance of an Estate, how averred, when not required. Request, general, special, Form of, Notice, Breach, how assigned, in the Words of the Covenant, or Promise, Intent; defective, in what Cases. Damages, how stated, general, special, Pledges, *Profert*, when required.

Declaration—delivered, filed, Notice to plead, Rule to plead, Demand of Plea, Time for Pleading, *non pros*, for Want of Declaration, setting it aside, in what cases, upon what Terms, Injunction in Chancery, in Exchequer, Suit for the same Cause, at the same Time, both at Law, and in Equity.

LECTURE XX.

Monday, November 9, 1829.

PROCEEDINGS BEFORE PLEADING IN BAR.

IMPARLANCE, Oyer, Particulars of Demand, Summons for Time to plead, Order, Terms upon which granted, Affidavits, Notices of Motions, Petitions, Motions, Rules, Summons, Order, *dies non*, Days of Business, Ejectment, Proceedings in, Annuities, setting aside Proceedings, irregular, regular, staying, upon payment of Debt and Costs, Mortgage Money, Rent—and Costs, *Cognovit*, Warrant of Attorney, Penal Actions, Judgment, by confession, default of pleading, *when final*, *when interlocutory*, Writ of Inquiry, Notice of executing, how executed, Damages, Proceedings, on Covenants, or Agreements, in Deeds, under 8 and 9 Will. III. c. 2, s. 8.

Practice—as to change of Venue, striking out Counts, consolidating Actions ; bringing Money into Court, in what Cases, Practice respecting.

Consuance, Pleas in Abatement, to the Person, of the Plaintiff, of the Defendant ; to the Declaration, Form of, Requisites, at what Time pleaded, when they may be treated as Nullities, Replication, subsequent Pleadings, Demurrer ; Practice on, Judgment, Costs.

LECTURE XXI.

Friday, November 13, 1829.

PLEAS IN BAR, &c.

GENERAL Nature ; general Issue, special Plea, certainty of, positive, argumentative, act of special authority, how pleaded, as to particular Estates, Title, Seisin ; to Covenants, Duplicity, Form of, special Conclusion, *Quæ est eadêm ; et sic*, To the Country ; capable of Trial, bad in Part, Wager of Law, when allowed, Practice upon, Judgment, Costs.

Pleading several Pleas, Rule, when allowed, how drawn up, Costs.

Set-off, Plea of, Notice, Practice, Notice to dispute petitioning Creditor's Debt, trading, act of Bankruptcy, signing Pleas, filing, delivering, waiving, Rule to abide by.

REPLICATION—general Nature, *de injuriâ suâ propriâ absque tali causâ* ; when allowed, Form of, how pleaded, bad in Part, Duplicity ; Traverse, Form of, when *not* allowable, too large, too narrow, after a Traverse, *not* allowed, Exceptions ; in Trespass.

New Matter, *precludi non*, new Assignment, Time, Place, Exception, *extra viam*, Form of, Pleadings.

REPLICATION—single, direct, positive, not argumentative.

Departure—defined, Consequences of, how aided, *Protestando*.

Replication, *new Assignment*, filed, delivered.

REJOINDER—what, Sur-rejoinder, Rebutter, Sur-rebutter.

Filed, delivered, Counsel's Signature.

Time to Reply, Rule, Discontinuance, *nolle prosequi*, Signature of Counsel, *cassetur billa, vel breve*.

Issue—defined, general, special, how joined, common *similiter*, special *similiter*, Misjoinder in Issue, how tried, several Issues, in Law, and in Fact.

Practice—as to making up Issue, how made up, Form of, delivered, entered, on the Roll, *inoipitur*, Suggestion, Rule to enter.

LECTURE XXII.

Monday, November 16, 1829.

DEMURRER AND AMENDMENT.

DEMURRER—defined, Kinds of—1. General. 2. Special. Statutes regulating, 27 Eliz. c. 5—4 Ann. c. 16; when allowed, if the Objection appear on the Face of the Pleadings, or upon *Oyer*; Plaintiffs, Defendants, Joinder of Actions; to a bad Declaration, Plea, Replication, &c. *General Demurrer*, Definition of, in what Cases it will lie, Effect of. *Special Demurrer*, when, for Matters of Form, Definition of. Demurrer, how pleaded, Prayer of Judgment.

AMENDMENT—in Declaration, Plea, Replication, &c., in Substance, in Form, when allowed, by the Court, by a Judge at Chambers, Terms of granting, Leave to amend, Imparlance, Costs, Causes of Demurrer not amendable.

Practice upon Demurrer, Signature of Counsel, Joinder in Demurrer, Rule to join in, to enter the Issue, for a *concilium*, Paper Books, &c., how made up, by whom, when delivered to the Judges, Exceptions in the Margin, Days for Argument, Mode of Argument, &c.

Judgment.—1. *Respondeat ouster*. 2. Interlocutory. 3. Final.

COSTS—Replevin, Mandamus, *Quare impedit*, Prohibition; for Plaintiff, for Defendant, Stat. 8 and 9 Will. III. c. 11, s. 2; special Circumstances, double, treble, Taxation, Execution, Attachment.

Section IV.

LECTURE XXIII.

Friday, November 20, 1829.

ISSUE, RECORDS, TRIALS, &c.

TRIAL by the Record—at Bar, at *Nisi Prius*, Notice of Trial, in Town Causes, Country, not proceeding to Trial, Costs of the Day, Trial by *proviso*, Judgment as in Case of a Nonsuit, Motion to put off Trial, Jury, Law regulating, special, common, Views, in what Cases, Witnesses. *Subpoena*—1. *Ad testificandum*. 2. *Duces tecum*. Service, Disobedience of, Attachment Action, Record of *Nisi Prius*, Incipitur.

Entry of Causes—in Town, in the Country, withdrawing Record, Pleas *puis darrein continuance*, Law, and Practice. Arbitration—1. By Rule of Court. 2. Verdict, taken by Consent, Costs upon, Judgment, Costs, Execution, Attachment, Counsel, Conduct of Cause, Leader, Junior, Nonsuit, withdrawing Juror, *Retrahit*, Examination of Witnesses, Proofs, &c. &c.

LECTURE XXIV.

Monday, November 23, 1829.

EVIDENCE.

EVIDENCE—in general, Witnesses, Disqualification of, for Weakness of Intellect. Infamy, Interest, *Exceptions*, written. On the general Issue. In Actions upon Contracts. On the Case for Slander, malicious Prosecutions, Trover, and Conversion, Escapes, Nuisances. In Actions of Debt. Trespass. Admissions, Counsel, Solicitor. General Rules, best Evidence, Substance of Issue, affirmative, Points in Dispute, Examination. In *Assumpsit* generally, written Agreements, Statute of Frauds. *Covenant*. On the Case, for Slander, Libel, malicious Prosecution, Arrest, Trover, and Conversion, Escapes, Nuisances, penal Statutes. *Debt*, upon simple Contracts, Deeds, Judgments, Recognizances, Escapes, penal Statutes. *Detinue*. *Replevin*. *Trespass*, to Persons, Adultery; Seduction, *per quod servitium amisit*; personal Property; real Property. *Ejectment*, by Heir at Law, Devisee, Landlord, in other Cases.

DEMURRER TO EVIDENCE—defined, Practice upon, Joinder, when optional, compulsory, contingent Damages, Jury discharged, without assessing Damages, &c.

BILLS OF EXCEPTIONS—when allowed, Tender of, under 13 Edw. I. c. 31, Seal of Judge, when necessary to obtain, Writ to Judge to put his Seal, *Scire Facias*, Acknowledgment, in open Court, Costs upon, how far allowed, Writ of Error.

LECTURE XXV.

Friday, November 27, 1829.

VERDICT, &c. JUDGMENT, &c.

DAMAGES; in general. On several Issues; against several Defendants. In Debt. Special Verdict. Special Cases—Practice upon. Days in bank. *Postea*—how made out, Form of. New Trial—Motion for, within four Days. Exception. On what Grounds. Rule to enter a Non-suit, Point reserved. *Amendment*—Statutes concerning. *Jeofails*. *Arrest of Judgment*—in what Cases, Error on the Record, within what Time, Practice, Costs. *Repleader*, what—in what Cases, when denied; Judgment of, Proceedings upon, Misallowance of, Costs. *Venire facias de novo*—in what Cases. Insufficiency of Verdict, Difference between, and Writ of Inquiry, Costs. *Judgment non obstante Verdicto*—in what Cases, Costs. Rule for Judgment—Signing Judgment, Taxation of Costs, how made, Practice on. *Judgment, nunc*

pro tunc, docketing, registering. *Costs*—In what Cases, for Plaintiff; where Damages are under 40s. Stat. 43 Eliz. c. 6—11 and 12 Will. III. c. 9. Trespass, Battery, Stat. 22 and 23 Car. II. c. 9—Stat. 11 and 12 Will. III. c. 9. Certificate, Courts of Requests Acts, Operation of, how taken advantage of—1. Motion. 2. Plea. 3. Suggestion. 4. Nonsuit, Slanderous Words, Stat. 21 Jac. I. c. 16. s. 6. Inferior Tradesmen, Stat. 4 and 5 Will. and Mar. c. 23. s. 10. Wilful and malicious Trespasses, Stat. 8 and 9 Will. III. c. 11. s. 4. Welsh Judicature Act, Stat. 5 Geo. IV. c. 106. s. 21. Revenue Laws, Stat. 28 Geo. III. c. 37. s. 24. On Judgments, Stat. 43 Geo. III. c. 46. s. 4. On one of several Issues. For Defendant generally; Exceptions, if Plaintiffs sue as Testators, Executors, or Administrators; Frivolous and Vexatious Arrests, Stat. 43 Geo. III. c. 46. s. 3. Common Informers, Stat. 18 Eliz. c. 5. s. 3—Stat. 27 Eliz. c. 10. s. 1 and 2. Acquittal of one of several Defendants, Stat. 8 and 9 Will. III. c. 11. s. 1. Replevin, &c. Feigned Issues. Double Damages, Costs. Treble Damages, Costs. Costs—how set off, when allowed. Execution. *Capias ad Satisfaciendum*. *Fieri facias*. *Levari facias*. *Elegit*. *Habere facias possessionem*, &c., in Ejectment. Poundage of Sheriff. Entering of Satisfaction on the Roll.

LECTURE XXVI.

Monday, November 30, 1829.

SCIRE FACIAS, ERROR, &c.—CONCLUSION.

SCIRE FACIAS—1. Original. 2. Judicial. Upon a Judgment, Continuation of former Suit, upon a Recognizance, against Bail, by original, by Bill, Proceedings against Principal, *Capias ad satisfaciendum*, Practice upon, Action of Debt. *Scire Facias*, Writ, *ac etiam*, Form of, how sued out, on Judgments, on penal Bonds, for further Breaches, against Bankrupts, under the Lords' Acts, and Debtors discharged where Damages do not exceed £20, by 48 Geo. III. c. 123; Executors, Administrators, &c. Death, Marriage, Bankruptcy, against Heirs, Tertenants, &c.

Venue in Writ—how made out, Form, Delivery to Sheriff, Summons, *Scire feci*, *Nihil*, *Alias Scire Facias*, *Nihil*. Bail, fixed, when, Rule to appear, Judgment, Entry on the Roll.

Appearance, Declaration, delivered, Pleadings in, Discharge of Bail, as a Matter of Right, of Favour. Costs, in what Cases, Judgment, Execution, &c.

ERROR—when it lies, Writ of, Parties to, *coram nobis*, *coram vobis*, from what Courts, to the King's Bench, to the Exchequer Chamber, to the Court *nigh* the Exchequer, to the House of Lords, Limitation of, how obtained, Form of, its Effect. *Supersedeas*, Bail in, regulated by 3 Jac. I. c. 8.—3 Car. I. c. 4 s. 4.—6 Geo. 4, c. 96. How put in, within what Time, Liability, Practice upon, Exception to, Rule for better Bail. Record transcribed, Amendment, Quashing;

Abatement—1. By Act of God. 2. Of Law. 3. Of the Party, *Scire Facias quare executionem non*. Diminution, Rule to allege, Rule to assign Errors, Error in Fact, in Law, *Certiorari*, Assignment of Errors, Demurrer, Pleading, common, special, Practice upon, Joinder of Issue, Entry upon Record, Record of *Nisi Prius*, Trial, *Postea*, Issue in Law. *Concilium*—Days of hearing—Hearing. Judgment in Error—1. Of Affirmance. 2. Reversal, Damages, Costs, Interest, Double Costs, in what Cases, Execution, from what Court, Writ of Restitution, *Scire Facias*, with Suggestion, &c. *Auditâ Querelâ*, &c. &c.

CONCLUSION.

THE END.



